

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARDIK K. MEKHTARIAN,
Plaintiff,
v.
C. ORTEGA, *et al.*,
Defendants.

Case No. 1:20-cv-00696-ADA-CDB (PC)

ORDER GRANTING PLAINTIFF 90 DAYS
TO IDENTIFY AND SUBSTITUTE
PROPER PARTIES

(Doc. 16)

Plaintiff Mardik K. Mekhtarian is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983. This action proceeds on claims of gross negligence and medical malpractice against Defendant Ortega and claims of medical indifference against Defendants Brosius and Does 1–10. Although Plaintiff has stated a claim against Does 1–10, the Court will not require service on these defendants at this time. The Ninth Circuit has held that where identity is unknown prior to the filing of a complaint, the plaintiff should be given an opportunity through discovery to identify the unknown defendants unless it is clear that discovery would not uncover the identities, or that the complaint would be dismissed on other grounds. *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)).

Accordingly, the Court GRANTS Plaintiff 90 days in which to discover the name of Does 1–10 through subpoena or otherwise, and to substitute these defendants' actual names by filing a

1 “Notice of Substitution.” *See Wakefield*, 177 F.3d at 1163. If, within 90 days, Plaintiff fails to file
2 a notice of substitution that provides the actual name of the Doe defendants, the Court will
3 recommend dismissal of his claims against these defendants without prejudice.

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5 IT IS SO ORDERED.
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Dated: June 1, 2023



UNITED STATES MAGISTRATE JUDGE

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